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Attorneys for Secured Creditor
Stanford Federal Credit Union,
c/o Systems & Services Technologies, Inc.

UNITED STATES BANKRUPTCY COURT

NORTHERN DISTRICT OF CALIFORNIA - OAKLAND DIVISION

In re:) Case No.: 10-44354-LJT
Tom Markou,)
Debtor) **OBJECTION TO CONFIRMATION**
) **OF CHAPTER 13 PLAN**
) 341(a) Meeting of Creditors
)
) Date: June 24, 2010
) Time: 11:00 a.m.
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TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

Comes now Stanford Federal Credit Union, c/o Systems & Services Technologies, Inc., its successors and/or assigns, a secured creditor, party in interest ("Claimant") and files its Objection to Confirmation of Debtors' Chapter 13 Plan of Reorganization ("Plan") on the grounds that the Plan fails to comply with 11 U.S.C. §§1325 (a)(1), (a)(3), (a)(4), (a)(5)(B)(i) and (a)(5)(B)(ii), and Fed.R.Bankr. P., Rule 3015, and in support thereof would respectfully show the Court as follows:

STATEMENT OF FACTS

I. The above-styled Debtor filed a voluntary petition under Chapter 13 of Title 11, United States Bankruptcy Code, on April 16, 2010 ("Filing Date").

1 2. The Court has jurisdiction of this proceeding pursuant to 28 U.S.C. §1334 and this is a
2 core proceeding under 28 U.S.C. §157(b)(2)(G).

3 3. Movant is the owner and holder of a Retail Installment Contract ("Contract") in the
4 original principal sum of \$51,329.51, dated April 18, 2007 and executed by Tom Markou. Claimant
5 is secured under the Contract by a properly perfected first lien security interest in a 2007 DODGE
6 Charger-V8 Sedan 4D SRT-8 - VIN: 2B3LA73W77H678996 ("Collateral"). True and correct copies
7 of the Contract and of the Certificate of Title are attached hereto, marked Exhibits "1" and "2,"
8 respectively, and are incorporated herein by this reference.

9 4. The total debt due and owing to Claimant as of the Filing Date was \$31,590.55 as
10 evidenced by Claimant's Proof of Claim and Debtor is indebted to Claimant as of this date in the
11 amount of \$31,590.55.

12 **CREDITOR HAS NOT BEEN ADEQUATELY PROVIDED FOR AS A SECURED CREDITOR**

13 5. The Plan provides for payment of \$24,450.00 as a secured claim to Claimant.

14 6. Bankruptcy Code §506(a)(2), amended by the Bankruptcy Abuse Prevention and
15 Consumer Protection Act of 2005 ("Act"), provides that "If the debtor is an individual in a case
16 under chapter 7 or 13, such value with respect to the personal property securing an allowed claim
17 shall be determined based on the replacement value of such property as of the date of the filing of the
18 petition without deduction of costs of sale or marketing. With respect to the property acquired for
19 personal, family, or household purposes, replacement value shall mean the price a retail merchant
20 would charge for the property of that kind considering the age and condition of the property at the
21 time value is determined." Claimant contends that the amendment of §506(a)(2) overturns those
22 opinions that had permitted valuations based upon wholesale valuations including the Supreme
23 Court's *Rash* decision, by requiring retail values to be used in chapters 7 and 13, at least as to
24 property acquired by the debtor for personal, family, or household use.

1 7. As a result, the appropriate valuation to use in determining Claimant's claim should be
2 Kelly Blue Book retail valuation. Based upon the Kelley Blue Book retail valuation, Claimant is
3 informed and believes that the retail value of the property is \$28,900.00. Thus, the Plan understates
4 the value of the Collateral. A true and correct copy of the Kelley Blue Book valuation is attached
5 hereto as Exhibit "3," and is incorporated herein by this reference.
6

7 8. Claimant objects to confirmation of the Plan pursuant to 11 U.S.C. §1325 because the Plan
8 proposes an unreasonable length of time in which to pay Claimant's claim by extending the maturity
9 date for repayment under the Contract. The rate of depreciation of the Collateral will exceed the
10 proposed plan payments.

11 9. Claimant has been forced to file this Objection to Confirmation to protect its interest in the
12 Collateral and has agreed to pay the undersigned counsel reasonable attorney fees. Claimant requests
13 that Debtor be required to pay such attorneys fees as required by the Contract.
14

15 10. This objection is accompanied by the attached exhibits, all of which are incorporated by
16 reference as if fully rewritten herein.

17 11. Claimant respectfully reserves the right to make further objections to the Plan prior to and
18 at the time of the hearing thereon.
19

20 WHEREFORE, PREMISES CONSIDERED, Claimant prays that (1) this Court deny
21 confirmation of the Plan; (2) pay Claimant's reasonable attorney's fees and costs; and (3) grant
22 Claimant such other and further relief, at law and in equity, as is just.
23

24 Dated: May 26, 2010

Respectfully Submitted,

25 SOLOMON GRINDLE SILVERMAN &
26 WINTRINGER
27

28 By: /s/ Timothy J. Silverman
Timothy J. Silverman
Local Counsel for Stanford Federal Credit
Union, c/o Systems & Services Technologies,
Inc.

TAIL INSTALLMENT SALE CONTRACT - SIMPLE INTEREST CHARGE					
Buyer's Name Tom Marrou 4075 WOOD DRIVE FIRENZE, ALABAMA 36039		Seller's Name NIGHTHAWK DODGE - SON JOSÉ 1800 CRISTOL EXPY AUTOPARK FIRENZE, ALABAMA 36039		Sales Tax \$0.00	
You, the Buyer, have sold to me, Tom Marrou, the above-named Seller, the above-named vehicle, for the sum of \$5,1329.51, plus interest at 12% per month, due monthly, starting June 1, 2007, for the term of 12 months, or until paid in full, whichever comes first. I agree to pay to Seller, or to his assigns, the amount of \$5,1329.51, plus interest, plus all taxes, license fees, insurance premiums, and other charges, if any, which may be required by law, plus all costs of collection, including attorney's fees, if necessary, to collect this amount from me.					
Year Model New 2007	Make DODGE Charger	Exterior Color 1SD	Vehicle Identification Number 2B3R8Z3W7H678996	Priority Lien None	
FEDERAL TRUTH-IN-LENDING DISCLOSURES					
ANNUAL PERCENTAGE RATE 12% APR YEARLY RATE 12% APR	FINANCIAL CHARGE Total amount of credit provided \$5,1329.51	Amount Financed Total amount of credit provided \$5,1329.51	Total Payments Total amount of payments required to be made by the consumer \$55,825.64	Total Sale Price The total price of the vehicle or other property or service \$55,825.64	Vehicle Insurance I N/A
YOUR PAYMENT SCHEDULE					
Term of Agreement 12 Months	Amount of Payment \$5,1329.51	Interest Rate 12%	Interest Rate 12%	Interest Rate 12%	Interest Rate 12%
One Payment N/A	N/A	N/A	N/A	N/A	N/A
One Payment N/A	N/A	N/A	N/A	N/A	N/A
One Payment N/A	N/A	N/A	N/A	N/A	N/A
One Payment \$5,1329.51	\$5,1329.51	Interest Rate 12%	Interest Rate 12%	Interest Rate 12%	Interest Rate 12%
Late Charge Late Charge is \$25.00 plus 10% of the amount due. If you fail to make a payment by the due date, you will be charged a late fee. This charge will be applied to your account each month you are late. You will be responsible for all amounts due before the late charge is applied.					
Prepayments You may prepay all or part of your balance at any time without penalty. You may also prepay all or part of your balance prior to the maturity date of this contract. You may do so by giving written notice to the Seller at least 30 days before the maturity date.					
Adjustments The Seller reserves the right to make reasonable adjustments after the initial payment. Such an adjustment may increase or decrease the amount of the monthly payment.					
REDUCTION OF THE AMOUNT You may keep part of the amount paid in advance.					
1. Cash Price of Actual Net Dealer Allowances \$ 47,349.00					
2. Cash Price Advance \$ 45,499.00					
3. Cash Pre-Accrued \$ 845.00 LO-JACK					
4. Other Prepaid \$ 0.00					
5. Dealer N/A					
6. Dealer Deposit \$ 0.00					
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LIMITED POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that **STANFORD FEDERAL CREDIT UNION** together with its respective affiliate, and subsidiary corporations and entities (collectively "Lienholder") having its principal place of business at 1860 Embarcadero Road, Palo Alto, CA 94303 , in connection with certain security interests and liens created in the name of Lienholder, has and hereby affirms that it has made, constituted and appointed, and by these presents does make, constitute and appoint Systems & Services Technologies, Inc. ("SST" or "attorney-in-fact"), having its principal place of business at 4315 Pickett Road, St. Joseph, Missouri 64503, **Lienholder's** true and lawful attorney-in-fact and in **Lienholder's** name, place and stead to act solely for the purpose of performing any or all of the acts described herein in connection with any account serviced by SST pursuant to the Servicing Agreement dated as of July 1, 2009.

FIRST: To execute and/or endorse certificates of title, applications for certificates of title or other documents necessary or appropriate to evidence the assignment, sale, transfer, acquisition or disposition of vehicles or **Lienholder's** interest in vehicles including, but not limited to, vehicles to be sold at auction, or to be otherwise liquidated ("Title Administration Services"). In furtherance hereof, Lienholder specifically authorizes SST to contract with any person, in any manner and upon terms and conditions deemed, in the sole discretion of said attorney-in-fact, necessary or appropriate to facilitate Title Administration Services, including but not limited to electronic lien and title ("ELT") processing and administration.

SECOND: To endorse, sign, deliver and deposit any and all checks, drafts or instruments of deposits issued by obligors, insurance companies, vendors or third parties. Such instruments may only be executed and deposited by the attorney-in-fact if the same represent funds paid on any account serviced by the attorney-in-fact pursuant to the above-referenced Servicing Agreement.

THIRD: To execute and/or endorse any loan agreement, promissory note, security agreement, financing statement, certificate of title or other document, instrument or agreement, or any amendment, modification or supplement of any of the foregoing, and perform any act and covenant in any way which **Lienholder** itself could do which is necessary or appropriate to modify, amend, renew, extend, terminate and/or extinguish: (i) any and all liens and security interests granted to or created in favor of **Lienholder** in or affecting vehicles; or (ii) any indebtedness secured by any such lien or security interest or any right or obligation of the obligor of such indebtedness secured by a vehicle, in each case upon such terms and conditions deemed, in the sole discretion of said attorney-in-fact, necessary or appropriate in connection with such modification, amendment, renewal extension, termination and/or extinguishment.

FOURTH: To agree and to contract with any person, in any manner and upon terms and conditions deemed, in the sole discretion of said attorney-in-fact, necessary or appropriate for the accomplishment of any such modification, amendment, renewal, extension, termination and/or extinguishment of any such lien, security interest, indebtedness, right or obligation with respect to vehicles, to perform, rescind, reform or modify any such agreement or contract or any similar agreement or contract made by or on behalf of **Lienholder**; to execute acknowledge, seal and deliver any contract, agreement, certificate of title or other document, agreement or contract or any similar agreement or document creating, evidencing, securing or secured by any such lien, security interest, indebtedness, right or obligation; and to take all such other actions and steps, pay or receive such moneys and to execute, acknowledge, seal and deliver all such other certificates, documents and agreements as said attorney-in-fact may deem necessary or appropriate to consummate any such modification, amendment, renewal, extension, termination and/or extinguishment of any such security interest, lien, indebtedness, right or obligation or in furtherance of any of the transactions contemplated by the foregoing.

FIFTH: To commence a legal proceeding in the name of **Lienholder** to enforce a receivable, or file a claim in any obligor insolvency action. If attorney-in-fact exercises this right, **Lienholder** shall thereupon be deemed to have automatically assigned such receivable to attorney-in-fact, which assignment shall be solely for the purpose of collection/recovery.

SIXTH: To execute, deliver and file documents in the name of **Lienholder** with a court, administrative or regulatory agency or other body in response to any government seizure or impoundment of vehicles, or similar actions affecting vehicles.

SEVENTH: To execute, deliver and file claims, rebuttals and other documents in the name of **Lienholder** related to any claim with respect to a consumer insurance, warranty or credit enhancement product associated with a vehicle or account serviced pursuant to the Agreement, if applicable.

EIGHTH: With full and unqualified authority to delegate any or all of the foregoing powers to any person or persons whom said attorney-in-fact shall select.

NINTH: This Power of Attorney shall not be affected by the subsequent dissolution or disability of **Lienholder** or its authorized representatives.

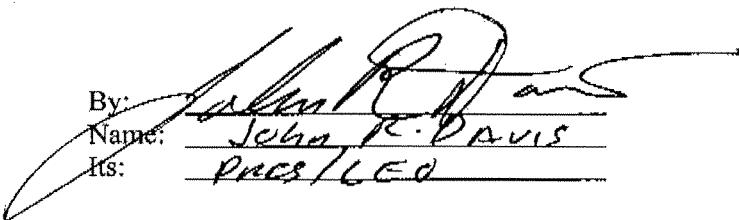
TENTH: To induce any third party to act hereunder, **Lienholder** hereby agrees that any third party receiving a duly executed copy or facsimile of this instrument may act hereunder, and that any notice of revocation or termination hereof or other revocation or termination hereof by operation of law shall be ineffective as to such third party.

[THE BALANCE OF THIS PAGE IS BLANK]

IN WITNESS WHEREOF, the undersigned has executed this Power of Attorney on behalf of **Lienholder** as of this 1st day of July, 2009.

STANFORD FEDERAL CREDIT UNION

By: _____
Name: _____
Its: _____

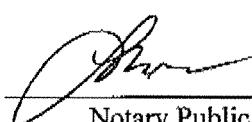


John R. Davis

ACKNOWLEDGMENT

STATE OF California)
COUNTY OF Santa Clara) ss

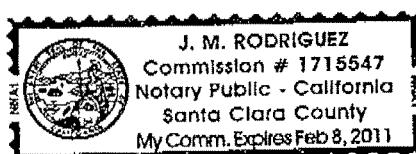
This instrument was acknowledged, sworn to and subscribed before me as of the date above written by John R. Davis on behalf of **Stanford Federal Credit Union**, as its duly authorized representative.



Notary Public

My commission expires:

Feb. 8, 2011



STATE OF CALIFORNIA

CERTIFICATE OF TITLE

Vehicle ID Number: **N68081031FD** VEHICLE HISTORY: **[Redacted]**

AUTOMOBILE

VEHICLE ID NUMBER 2B3LA73W77HL78996	YR MODEL 2007 DODG	MAKE DODG	PLATE NUMBER 5ZKX391
BODY TYPE MODEL 4D	UNLADEN WEIGHT G	FUEL TRANSFER DATE G	FEES PAID NONE
YR 1ST SOLD 2007	CLASS MW	MO PY	EQUIPMENT/TRUST NUMBER [Redacted]
		ISSUE DATE 11/08/08	ODOOMETER DATE 04/18/2007
			ODOOMETER READING 101 MI
MOTORCYCLE ENGINE NUMBER [Redacted]			
REGISTERED OWNER(S) MARKOU TOM 40765 VACA DR FREMONT CA 94539			
ACTUAL MILEAGE [Redacted]			

VOID WITHOUT BEAR WATERMARK. HOLD TO LIGHT TO VIEW.

I certify (or declare) under penalty of perjury under the laws of the State of California that THE SIGNATURE(S) BELOW RELEASES INTEREST IN THE VEHICLE.

1a. _____ DATE **X** SIGNATURE OF REGISTERED OWNER

1b. _____ DATE **X** SIGNATURE OF REGISTERED OWNER

Federal and State law requires that you state the mileage upon transfer of ownership. Failure to complete or providing a false statement may result in fines and/or imprisonment.

The odometer now reads **[Redacted]** (no tenths), miles and to the best of my knowledge reflects the actual mileage unless one of the following statements is checked.

WARNING Odometer reading is not the actual mileage. Mileage exceeds the odometer mechanical limits.

I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

DATE	TRANSFERRED SELLER SIGNATURE	DATE	TRANSFERRED BUYER SIGNATURE
X		X	
PRINTED NAME OF SELLER OR AGENT SIGNING FOR A COMPANY		PRINTED NAME OF BUYER OR AGENT SIGNING FOR A COMPANY	

IMPORTANT READ CAREFULLY
Any change of Lienholder (holder of security interest) must be reported to the Department of Motor Vehicles within 10 days.
LEINHOLDER(S):
**STANFORD FCU
PO BX 10690
PALO ALTO CA 94303**

2. **X**
Signature releases interest in vehicle. (Company names must be countersigned)
Release Date: **02/13/23**

CA 114721816
REG. 17-30BS (REV. 7/07) - **021323**

KEEP IN A SAFE PLACE - VOID IF ALTERED

VOID WITHOUT BEAR WATERMARK. HOLD TO LIGHT TO VIEW.

EXHIBIT 2


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advertisement

DODGE

**Charger RT has the best horsepower
and torque in its class⁽¹⁾**



2007 Dodge Charger SRT8 Sedan 4D

BLUE BOOK® SUGGESTED RETAIL VALUE



Condition	Value
✓ Excellent (Selected)	\$28,900

Suggested Retail Value Assumes Excellent Condition... [More](#)

Vehicle Highlights

Mileage: 49,000
 Engine: V8 6.1 Liter HEMI
 Transmission: Automatic
 Drivetrain: RWD

1. Based on 2010 Kelley Blue Book Used Car Value Report. ©2010 Kelley Blue Book, Inc. All rights reserved.

Selected Equipment

Standard

Stability Control	Cruise Control	Leather
Air Conditioning	AM/FM Stereo	Dual Power Seats
Power Steering	Single Compact Disc	Rear Spoiler
Power Windows	Dual Front Air Bags	Premium Wheels 19" +
Power Door Locks	ABS (4-Wheel)	
Tilt Wheel	Traction Control	

Blue Book Suggested Retail Value

Kelley Blue Book Suggested Retail Value is representative of dealers' asking prices for a used car, and the starting point for negotiation between a consumer and a dealer. This Suggested Retail Value assumes that the vehicle has been fully reconditioned and has a clean title history, but has not been certified in accordance with any Certified Pre-Owned (CPO) program the automaker may offer (for which it may or may not qualify, according to factors such as vehicle age and mileage). This value also takes into account the dealers' profit, costs for advertising, sales commissions and other costs of doing business. The final sale price will likely be less depending on the vehicle's actual condition, popularity, type of warranty offered and local market conditions.

Vehicle Condition Ratings

✓ Excellent (Selected)

\$28,900

- Looks new, is in excellent mechanical condition and needs no reconditioning.
- Never had any paint or body work and is free of rust.
- Clean title history and will pass a smog and safety inspection.
- Engine compartment is clean, with no fluid leaks and is free of any wear or visible defects.
- Complete and verifiable service records.

Less than 5% of all used vehicles fall into this category.

* California 5/16/2010

advertisement

DODGE

[FIND A DEALER](#)

[GET A DEALER QUOTE](#)

**up to
\$3000
Customer Cash
Allowance**

On select 2010 Dodge Charger models



[Close Window](#)

EXHIBIT 3

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